

SEP 28 2001

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

DOCKETED

SEP 28 2001

(PCT Rule 44.1)

To:
BLAIR JERVIS MICHEL CALLISTEIN RAN
BROMERT BRUCE VARLEY CIGANLAPPEGARD
Attn. Blair, Debra
7100 N.W. 62nd Avenue,
Darwin Building
Johnston, Iowa 50131-1000
UNITED STATES OF AMERICA

Date of mailing
(day/month/year)

25/09/2001

Applicant's or agent's file reference

0578R-PCT

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US 01/04527

International filing date
(day/month/year)

13/02/2001

Applicant

PIONEER HI-BRED INTERNATIONAL, INC. et al.

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.
Filing of amendments and statement under Article 19:
The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within 19 months from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within 20 months from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl.
Fax: (+31-70) 340-3016

Authorized officer

Chantal Meyer

PCT

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SEP 28 2001

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 0578R-PCT	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 01/04527	International filing date (day/month/year) 13/02/2001	(Earliest) Priority Date (day/month/year) 15/02/2000
Applicant PIONEER HI-BRED INTERNATIONAL, INC. et al.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.
☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).
- b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing:
- ☒ contained in the international application in written form.
- ☒ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

2. ☒ Certain claims were found unsearchable (See Box I).
3. ☐ Unity of invention is lacking (see Box II).

4. With regard to the title,

- ☐ the text is approved as submitted by the applicant.
- ☒ the text has been established by this Authority to read as follows:

MALE TISSUE-SPECIFIC REGULATORY REGION AND METHOD OF USING SAME

5. With regard to the abstract,

- ☒ the text is approved as submitted by the applicant.
- ☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.

- ☐ as suggested by the applicant.
- ☐ because the applicant failed to suggest a figure.
- ☐ because this figure better characterizes the invention.

☒ None of the figures.

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 C12N

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal, WPI Data, PAJ, SEQUENCE SEARCH

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 98 59061 A (PIONEER HI BRED INT) 30 December 1998 (1998-12-30) the whole document, especially page 15, line 36 - page 16, line 21.	1-22
A	WO 96 40925 A (PIONEER HI BRED INT) 19 December 1996 (1996-12-19) cited in the application abstract	
A	WO 96 17945 A (PIONEER HI BRED INT) 13 June 1996 (1996-06-13) cited in the application abstract	

*What could
is it WPI?*

☐ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *8* document member of the same patent family

Date of the actual completion of the international search

18 September 2001

Date of mailing of the international search report

25/09/2001

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

De Kok, A

Continuation of Box I.2

Claims Nos.: 1-8, partly

Present claims 1-8 relate to a regulatory region defined by reference to a desirable characteristic or property, namely comprising nucleotide sequences essential for the transcription of the MS45 gene, as well as sequences hybridizing thereto. The claims cover all regions having this characteristic or property, whereas the application provides support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT for only ONE such region. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Independent of the above reasoning, the claims also lack clarity (Article 6 PCT). An attempt is made to define the regulatory region by reference to a result to be achieved. Again, this lack of clarity in the present case is such as to render a meaningful search over the whole of the claimed scope impossible. Consequently, the search has been carried out for those parts of the claims which appear to be clear, supported and disclosed, namely those parts relating to the sequences defined by SEQ.ID.No's 1 and 2, fragments thereof and sequences complementary thereto.

The applicant's attention is drawn to the fact that claims, or parts of claims, relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure.

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

2. ☒ Claims Nos.: 1-8, partly
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
see FURTHER INFORMATION sheet PCT/ISA/210

3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.

2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.

3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:

4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

Patent document cited in search report		Publication date	Patent fam member(s)	PCT/US 01/04527
WO 9859061	A	30-12-1998	US AU BG CN EP HU TR WO	6037523 A 8157698 A 104095 A 1268183 T 0994956 A1 0002578 A2 9903234 T2 9859061 A1 14-03-2000 04-01-1999 30-11-2000 27-09-2000 26-04-2000 28-12-2000 21-06-2000 30-12-1998
WO 9640925	A	19-12-1996	US AU AU CA EP HU JP WO	5837850 A 696222 B2 6174596 A 2223459 A1 0835310 A2 9901073 A2 11506321 T 9640925 A2 17-11-1998 03-09-1998 30-12-1996 19-12-1996 15-04-1998 28-07-1999 08-06-1999 19-12-1996
WO 9617945	A	13-06-1996	US US AU AU BR CA EP HU JP NZ WO US US US US US US US US	5750868 A 5689051 A 698286 B2 4243696 A 9510456 A 2207264 A1 0797675 A1 77110 A2 10510983 T 297303 A 9617945 A1 5792853 A 5689049 A 5837851 A 5763243 A 5795753 A 6281348 B1 6248935 B1 6072102 A 12-05-1998 18-11-1997 29-10-1998 26-06-1996 26-05-1998 13-06-1996 01-10-1997 02-03-1998 27-10-1998 24-09-1998 13-06-1996 11-08-1998 18-11-1997 17-11-1998 09-06-1998 18-08-1998 28-08-2001 19-06-2001 06-06-2000